

Citation: *R. v. Eriksen*, 2008 YKTC 85

Date: 20081104
Docket: 07-00685
07-00685A
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON

Before: His Honour Judge Foisy

REGINA

v.

JOHN ABRAHAM ERIKSEN

Appearances:
Jennifer Grandy
Colleen Harrington

Counsel for Crown
Counsel for Defence

REASONS FOR JUDGMENT

[1] FOISY T.C.J. (Oral): Count 2 has already been dismissed against Mr. Eriksen. I am dealing with Count 1, the allegation of uttering a threat to cause death to Daljeet Dhillon.

[2] It may well be that Mr. Eriksen does not remember what happened. I am prepared to concede to him that he does not remember. It appears that he is a heavy drinker; that he undoubtedly has developed some kind of addiction to alcohol; but it is not enough to say "I don't remember." Lack of memory does not necessarily equate to lack of a specific intention to commit a crime such as this one.

[3] In coming to the conclusion that I am satisfied beyond a reasonable doubt that he

did have the specific intent I rely on the evidence of the complainant in this case and her outline of the series of events as they involved the accused prior to, at the time and subsequent to the uttering of the threat.

[4] I also rely on the evidence of Police Officer Smith, who has no particular axe to grind here. He was of the view that while the accused undoubtedly was under the influence of alcohol, to use his words, "He knew what was going on."

[5] I would like to say something about the record which was read to the accused during his cross-examination. Crown properly did what she did in this case. If parts of the record are to be kept out in the sense that they cannot be cross-examined on, then a *Corbett* application has to be made. There was none.

[6] In any event, I do not have to rely on the record as it relates to the accused's credibility. I have already said that I accept his contention that he does not remember because of alcohol.

[7] For the reasons I have just given, then, I find him guilty of Count 1 as charged.

[8] We also have a mischief guilty plea to that and a failing to appear guilty plea, so we can deal with all of those in sentencing.

FOISY T.C.J.